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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,724	06/24/2005	Daniel Clapp	1263-4 PCT US	2411
28249	7590	07/19/2007	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. SUITE 702 UNIONDALE, NY 11553			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	
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			07/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/540,724

Applicant(s)

CLAPP, DANIEL

Examiner

Gregory W. Adams

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-11,13-17 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-11,13-17 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/24/05
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9, 13-17 & 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hagenbuch et al. (US 6,439,668).

With respect to claims 1, 2, 11, Hagenbuch discloses a pallet stacking unit comprising:

- a pallet hopper 122 reversibly moveable from a pallet loading and stacking position (FIG. 23) to a stacked pallet discharging position (FIG. 25), and
- a pallet hopper being pivotally linked to a fixed support through a 4-bar linkage 184, 186.

With respect to claim 3, Hagenbuch discloses an L-shaped hopper 122.

With respect to claim 4, Hagenbuch discloses first pair of bars 184, 186 disposed on one side a second pair of bars 184, 186 symmetrically disposed on the other side of the pallet hopper, each of the 4 bars being pivotally linked at one of its ends to a pivot point 120, 121 on a fixed support and at the other of its ends to a pivot point on a pallet hopper 122.

With respect to claim 5, Hagenbuch discloses distances between consecutive pivot points on each side of the pallet hopper are substantially equal.

With respect to claim 6, Haggenbuch discloses a flow track 124 to facilitate discharge of stacked pallets from a pallet hopper.

With respect to claim 9, Haggenbuch discloses means for dampening movement of a pallet hopper.

With respect to claim 13, Haggenbuch discloses 4-bar linkage provides a compound motion characterized by a nearly vertical movement of the forward edge of the pallet hopper as the pallet hopper transitions from the pallet loading and stacking position to the stacked pallet discharging position.

With respect to claim 14, Haggenbuch discloses a first pair of bars disposed on one side of the pallet hopper and a second pair of bars symmetrically disposed on the other side of the pallet hopper, each of the 4 bars being pivotally linked at one of its ends to a pivot point on a fixed support and at the other of its ends to a pivot point on a pallet hopper.

With respect to claim 15, Haggenbuch discloses distances between consecutive pivot points on each side of the pallet hopper are substantially equal.

With respect to claim 16, Haggenbuch discloses an L-shaped.

With respect to claim 17, Haggenbuch discloses a flow track.

With respect to claim 20, Haggenbuch discloses means for dampening the movement of the pallet hopper.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3652

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch et al. (US 6,439,668) in view of Konstant (US 2002/0159865).

With respect to claims 10 & 21, Hagenbuch et al. do not disclose a gas spring. Konstant discloses a gas spring 66 to provide container unloading system that deliver unit loads, parts container bins and the like to an access aisle and smoothly present the loads at an operator selected angle of presentation for ease of access. Para. [0009]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Hagenbuch et al. to include a gas spring, as per the teachings of Konstant, to improve tilting load deliverers.

Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch et al. (US 6,439,668) in view of Erdman (US 4,037,734).

With respect to claims 22 & 24-25, Hagenbuch et al. does not disclose a gate, gate supporting assembly and means for raising and lower a flow track and tilting a gate. Erdman discloses a gate 42 and gate supporting members and means 48 for raising and lowering and tilting a gate to solve the problem of depalletizing layers of cases individually by eliminating the step of lifting and raising the entire stack, saving time. C1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Hagenbuch et al. to include disclose a gate and means for raising and lower a flow track and tilting a gate, as per the teachings of Erdman, to save time during unloading.

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With respect to claim 23, Hagenbuch et al. disclose a lever.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
GWA

  
SAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER